

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

DEKENYA NELSON §
VS. § CIVIL ACTION NO. 1:07cv689
OFFICER REYES §

MEMORANDUM OPINION REGARDING VENUE

Plaintiff Dekenya Nelson, an inmate confined in the Estelle Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brings this civil rights action pursuant to 42 U.S.C. § 1983 against Officer Reyes. Plaintiff alleges that when he was passing through the Allred Unit, where the defendant is employed, the defendant, a property officer, improperly confiscated certain property owned by plaintiff.

Analysis

The Civil Rights Act, 42 U.S.C. § 1981, *et. seq.*, under which this case is brought, does not contain a specific venue provision. Accordingly, venue in civil rights cases is controlled by 28 U.S.C. § 1391. *Jones v. Bales*, 58 F.R.D. 453 (N.D. Ga. 1972), *aff'd per curiam*, 480 F.2d 805 (5th Cir. 1973).

When, as in this case, jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is proper only in the judicial district where the defendant resides or in which the claim arose.

The claim raised in this lawsuit arose in Wichita County, Texas, where the Allred Unit is located. In addition, the

defendant appears to reside in Wichita County. Pursuant to 28 U.S.C. § 124, Wichita County is located in the Wichita Falls Division of the United States District Court for the Northern District of Texas.

As Wichita County is located in the Northern District of Texas, venue in the Eastern District of Texas is not proper. When venue is not proper, the court "shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. § 1406(a).

Accordingly, this case will be transferred to the Wichita Falls Division of the United States District Court for the Northern District of Texas. A Transfer Order shall be entered in accordance with this Memorandum Opinion.

SIGNED this 15 day of October, 2007.



KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE